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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,733	03/22/2004	Daniel Bichon	IVD919 US DIV 2	9569
5487	7590	12/08/2005	EXAMINER AULAKH, CHARANJIT	
ROSS J. OEHLER AVENTIS PHARMACEUTICALS INC. ROUTE 202-206 MAIL CODE: D303A BRIDGEWATER, NJ 08807			ART UNIT 1625	
DATE MAILED: 12/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/805,733

Applicant(s)

BICHON ET AL.

Examiner

Charanjit S. Aulakh

Art Unit

1625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-14, 22, 23, 26 and 29-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5, 7-14, 22, 23, 26 and 29-33 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____  | 6) <input type="checkbox"/> Other: ____                                     |

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### **DETAILED ACTION**

1. According to a preliminary amendment, the applicants have canceled claims 6, 15-21, 24, 25, 27 and 28 and furthermore, have amended claims 4, 5, 7-9, 11-13, 22, 23 and 30-33.

2. Claims 1-5, 7-14, 22, 23, 26 and 29-33 are now pending in the application.

### ***Election/Restrictions***

3. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B1 and pharmaceutical compositions containing these compounds.

Group II, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B2 and pharmaceutical compositions containing these compounds.

Group III, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B3 and pharmaceutical compositions containing these compounds.

Group IV, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B4 and pharmaceutical compositions containing these compounds.

Group V, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B5 and pharmaceutical compositions containing these compounds.

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Group VI, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B6 and pharmaceutical compositions containing these compounds.

Group VII, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B7 and pharmaceutical compositions containing these compounds.

Group VIII, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B8 and pharmaceutical compositions containing these compounds.

Group IX, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B9 and pharmaceutical compositions containing these compounds.

Group X, claim(s) 1-5, 7-14, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_3$  and B represents formula B10 and pharmaceutical compositions containing these compounds..

Group XI, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B1 and pharmaceutical compositions containing these compounds.

Group XII, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B2 and pharmaceutical compositions containing these compounds.

Group XIII, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B3 and pharmaceutical compositions containing these compounds.

Group XIV, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B4 and pharmaceutical compositions containing these compounds.

Group XV, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B5 and pharmaceutical compositions containing these compounds.

Group XVI, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B6 and pharmaceutical compositions containing these compounds.

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Group XVII, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B7 and pharmaceutical compositions containing these compounds.

Group XVIII, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B8 and pharmaceutical compositions containing these compounds.

Group XIX, claim(s) 1, 2, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B9 and pharmaceutical compositions containing these compounds.

Group XX, claim(s) 1-5, 7-14, 22, 23, 26 and 29-33, drawn to compounds of formula (I) where R1 and R2 together form  $-(CH_2)_4$  and B represents formula B10 and pharmaceutical compositions containing these compounds.

Group XX1, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B1 and pharmaceutical compositions containing these compounds.

Group XX1I, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B2 and pharmaceutical compositions containing these compounds.

Group XX1II, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B3 and pharmaceutical compositions containing these compounds.

Group XX1V, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B4 and pharmaceutical compositions containing these compounds.

Group XXV, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B5 and pharmaceutical compositions containing these compounds.

Group XXVI, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B6 and pharmaceutical compositions containing these compounds.

Group XXVII, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B7 and pharmaceutical compositions containing these compounds.

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Group XXVIII, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B8 and pharmaceutical compositions containing these compounds.

Group XXIX, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B9 and pharmaceutical compositions containing these compounds.

Group XXX, claim(s) 1, 26 and 29-33, drawn to compounds of formula (I) where R1 is H and R2 is methyl and B represents formula B10 and pharmaceutical compositions containing these compounds.

4. The inventions listed as Groups I through XXX do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: There is no common core which in the Markush Practice, is a significant structural element shared by all of the alternatives; see PCT Administrative Instructions Annex B Part I (f) (i) (B) (1). The variables R1, R2 and B are critical for the common core of instant compounds of formula (I).

5. A telephone call was made to the applicant's attorney, Mr. Paul E. Dupont on Dec. 1, 2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

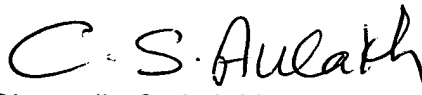
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cecilia Tsang can be reached on (571)272-0562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Charanjit S. Aulakh  
Primary Examiner  
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